

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

Duane M. Scholl,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08 C 50086
)	
Rogers Ready Mix and Materials, Inc. and)	
Chad Broege,)	
)	
Defendants.)	

**PLAINTIFF'S ANSWER TO DEFENDANT CHAD BROEGE'S
AFFIRMATIVE DEFENSES**

NOW COMES the Plaintiff, Duane M. Scholl, by and through his attorneys, James T. Harrison of Harrison Law Offices, P.C., and answers the affirmative defenses filed by the Defendant Chad Broege as follows:

1. Count II and the claims thereunder are preempted by federal law, including, but not limited to, Section 301 of the Labor Management Relations Act, 29 U.S.C. §185.

ANSWER: Plaintiff denies Defendant's first affirmative defense.

2. Broege denies each and every allegation, claim, and prayer of the Complaint which is not expressly and specifically admitted.

ANSWER: Defendant's second affirmative defense is not an affirmative defense, but merely a denial of the allegations of the complaint. Plaintiff denies Defendant's second affirmative defense.

3. Plaintiff's claims are barred because the Complaint fails to state a claim against Broege upon which relief can be granted.

ANSWER: Plaintiff denies Defendant's third affirmative defense.

4. Plaintiff is not entitled to the relief requested as a matter of fact or law.

ANSWER: Plaintiff denies Defendant's fourth affirmative defense.

5. Plaintiff's claims against Broege regarding mental, physical, and emotional injuries or illnesses are barred, in whole or in part, by the mandatory and exclusive provisions of the Illinois Workers' Compensation law.

ANSWER: Plaintiff denies Defendant's fifth affirmative defense.

6. Plaintiff's claims against Broege for punitive damages are barred by the United States and Illinois Constitutions because the asserted standard for entitlement to punitive damages is vague and arbitrary and the procedure for the assessment of punitive damages violates Broege's rights to due process of law, to equal protection of law, to the right to be free from unlawful taking of property, the right to be free of excessive fines and all other substantive and procedural protection of Constitution applicable to punitive damages.

ANSWER: Plaintiff denies Defendant's sixth affirmative defense.

7. Plaintiff's claims are precluded by federal law, including, but not limited to, Section 301 of the Labor Management Relations Act, 29 U.S.C. §185.

ANSWER: Plaintiff denies Defendant's seventh affirmative defense.

8. Plaintiff's claims are barred by arbitration, estoppel, and res judicata arising out of the final and binding decision of the Joint Committee on Scholl's grievance under the collective bargaining agreement.

ANSWER: Plaintiff denies Defendant's eighth affirmative defense.

9. Broege reserves the right to assert each and every other affirmative defense which is identified during further proceedings.

ANSWER: Plaintiff denies Defendant's tenth affirmative defense.

WHEREFORE Plaintiff Duane Scholl prays this Honorable Court deny Defendant Chad Broege's affirmative defenses, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/James T. Harrison

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the foregoing **Plaintiff's Answer to Defendant Chad Broege's Affirmative Defenses** was electronically filed with the Clerk of the U.S. District Court, Western Division and e-filed to the below listed person(s) on the 4th day of September, 2008, using the CM/ECF system.

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/s/James T. Harrison
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